

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

LIBERTY INSURANCE UNDERWRITERS,)	
INC., an Illinois corporation,)	
)	
Plaintiff,)	
)	
v.)	1:16CV1377
)	
BEAUFURN, LLC, a North Carolina)	
limited liability company;)	
and DOES 1-10,)	
)	
Defendants.)	

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation ("Recommendation") filed on January 19, 2021, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 99.) In the Recommendation, the Magistrate Judge recommends that Defendant's Motion to Compel Deposition Testimony and Motion for Sanctions, (Doc. 94), be denied and "Defendant and its counsel be made to show cause why they should not 'pay [Plaintiff] its reasonable expenses incurred in opposing the [instant M]otion, including attorney's fees,'" (Doc. 99 at 14 (brackets in original)). The Recommendation was served on the parties to this action on

January 19, 2021, (Doc. 100). Defendant filed objections, (Doc. 103), to the Recommendation.¹

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which the objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 99), is **ADOPTED. IT IS FURTHER ORDERED** that Defendant's Motion to Compel Deposition Testimony and

¹ Although nominally contesting the Recommendation to show cause, Defendant's objections substantively address the propriety of expense-shifting. (See Doc. 103.) In other words, the objections effectively respond to the show cause recommendation rather than challenge the appropriateness of a show cause order. Defendant is free to raise these issues as part of the show cause determination; Fed. R. Civ. P. 37(a)(5)(B) prohibits the award of expenses if "other circumstances make an award of expenses unjust."

Motion for Sanctions, (Doc. 94), is **DENIED** and that Defendant and its counsel shall show cause why they should not "pay [Plaintiff] its reasonable expenses incurred in opposing the [instant M]otion, including attorney's fees," Fed. R. Civ. P. 37(a)(5)(B).

This the 22nd day of February, 2021.


United States District Judge